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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/748,211

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Paul A. Puniello

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EXAMINER

LEE, EDMUND H

ART UNIT

PAPER NUMBER

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MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/748,211	Applicant(s) PUNIELLO ET AL.	
	Examiner EDMUND H. LEE	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lammi (USPN 5783293) in view of Maruko et al (USPN 5823890) and Murphy (USPN 5427378).

It should be noted that instant specification recites that a multi-color cover layer is comprised of a “first material divided into an inner layer and an outer layer by an injected intermediate layer of a second material.” See pg 9, Ins 15-17 of the instant specification. The multi-color layer is made of up three layers.

In regard to claim 1, Lammi teaches the basic claimed process including a method of forming a golf ball (col 5, Ins 1-39; figs 1-8); forming a core (col 5, Ins 1-39; figs 1-8); forming a single multi-layer over the core (col 5, Ins 1-39; figs 1-8); selecting a material (col 5, Ins 1-39; figs 1-8); providing a first portion of the material (col 5, Ins 1-39; figs 1-8); providing a second portion of the material (col 5, Ins 1-39; figs 1-8); and injecting the first and second materials to form the multi-layers (col 5, Ins 1-39; figs 1-8). Lammi, however, does not teach a multi-color layer; providing a first portion of the material with a first pigment additive; and providing a second portion of the material with a second pigment additive, the second pigment being a different color than the first pigment additive. Maruko et al teaches a golf ball (col 1, Ins 38-42; fig 1); and a single

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multi-color cover layer, wherein the layers have different colors (col 1, Ins 38-42; fig 1)-- it should be noted that together the colored inner and outer layers of Maruko et al constitute a single multi-color layer. Maruko et al also inherently teaches that color additives were used. Lammi and Maruko et al are combinable because they are analogous with respect to golf balls. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to color the cover layers of Lammi as taught by Maruko et al in order to form a good appearing golf ball. Murphy teaches a golf ball including a material comprising light reflective active particles in order to produce a highly visible, reflective golf ball (abstract; col 2, Ins 38-42; col 3, Ins 4-12; col 4, ln 64-col 5, ln 7). Lammi (modified) and Murphy are combinable because they are analogous with respect to golf balls. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the pigment additive of Murphy into the first material of Lammi in order to form a highly visible, light reflective golf ball. In regard to claims 2-5,7-9,12 and 14, such are taught by Lammi (col 5, Ins 1-39; figs 1-8). In regard to claims 6,10 and 11, Lammi does not teach forming an outer cover layer and an inner cover layer of substantially the same thickness; forming a substantially white first portion; and forming a substantially translucent cover over the multi-color layer. In regard to forming an outer cover layer and an inner cover layer of substantially the same thickness, such is a mere obvious matter of choice dependent on the desired final product and of little patentable consequence to the claimed process since it is not a manipulative feature or step of the claimed process. Further, golf balls having an outer cover layer and an inner cover layer of substantially the same thickness

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are well-known in the golf ball art. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the inner and outer cover layers of Lammi with substantially the same thickness in order to form a golf ball having a specific playing characteristic. In regard to forming a substantially white first portion, such is a mere obvious matter of choice dependent on the desired final product and of little patentable consequence to the claimed process since it is not a manipulative feature or step of the claimed process. Further, golf balls having a substantially white cover layer are well-known in the golf ball art. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to color the first portion of Lammi white in order form a good appearing golf ball. In regard to forming a substantially translucent cover over the multi-color layer, such is well-known in the golf ball art in order to form a good appearing golf ball. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form a substantially translucent cover over the multi-color layer of Lammi (modified) in order to form a good appearing golf ball.

3. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lammi (USPN 5783293) in view of Maruko et al (USPN 5823890) as set forth in the Office action mailed 2/5/09 and further in view of Murphy (USPN 5427378).

It should be noted that instant specification recites that a multi-color cover layer is comprised of a “first material divided into an inner layer and an outer layer by an injected intermediate layer of a second material.” See pg 9, lns 15-17 of the instant specification. The multi-color layer is made of up three layers.

Murphy teaches a golf ball including a material comprising light reflective active particles in order to produce a highly visible, reflective golf ball (abstract; col 2, Ins 38-42; col 3, Ins 4-12; col 4, ln 64-col 5, ln 7). Lammi (modified) and Murphy are combinable because they are analogous with respect to golf balls. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the pigment additive of Murphy into the first portion of the material of Lammi in order to form a highly visible, light reflective golf ball.

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lammi (USPN 5783293) in view of Maruko et al (USPN 5823890) and Meyer (USPN 4998734) as set forth in the Office action mailed 2/5/09 and further in view of Murphy (USPN 5427378).

It should be noted that instant specification recites that a multi-color cover layer is comprised of a “first material divided into an inner layer and an outer layer by an injected intermediate layer of a second material.” See pg 9, Ins 15-17 of the instant specification. The multi-color layer is made of up three layers.

Murphy teaches a golf ball including a material comprising light reflective active particles in order to produce a highly visible, reflective golf ball (abstract; col 2, Ins 38-42; col 3, Ins 4-12; col 4, ln 64-col 5, ln 7). Lammi (modified) and Murphy are combinable because they are analogous with respect to golf balls. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the pigment additive of Murphy into the material of Lammi in order to form a highly visible, light reflective golf ball.

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5. Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lammi (USPN 5783293) in view of Kennedy, III et al (USPN 6790149) and Murphy (USPN 5427378).

It should be noted that instant specification recites that a multi-color cover layer is comprised of a “first material divided into an inner layer and an outer layer by an injected intermediate layer of a second material.” See pg 9, Ins 15-17 of the instant specification. The multi-color layer is made of up three layers.

In regard to claim 1, Lammi teaches the basic claimed process including a method of forming a golf ball (col 5, Ins 1-39; figs 1-8); forming a core (col 5, Ins 1-39; figs 1-8); forming a multi-layer over the core (col 5, Ins 1-39; figs 1-8); selecting a material (col 5, Ins 1-39; figs 1-8); providing a first portion of the material (col 5, Ins 1-39; figs 1-8); providing a second portion of the material (col 5, Ins 1-39; figs 1-8); and injecting the first and second materials to form the multi-layers (col 5, Ins 1-39; figs 1-8). Lammi, however, does not teach providing a first portion of the material with a first pigment additive; and providing a second portion of the material being a substantially translucent material. Kennedy, III et al teach a golf ball having a multi-color cover layer comprised of a colored inner layer and a translucent outer layer (col 9, Ins 53-58; col 23, Ins 5-19). Kennedy, III et al teach that the cover layer can be transparent or translucent in order to highlight the coloring of the mantle layer, wherein the mantle layer can be an inner cover layer (col 9, Ins 53-58; col 23, Ins 5-19). Lammi and Kennedy, III et al are combinable because they are analogous with respect to golf balls. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use

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a color inner cover layer and translucent outer cover layer as taught by Kennedy, III et al in the process of Lammi in order to form an aesthetically pleasing golf ball. Murphy teaches a golf ball including a material comprising light reflective active particles in order to produce a highly visible, reflective golf ball (abstract; col 2, lns 38-42; col 3, lns 4-12; col 4, ln 64-col 5, ln 7). Lammi (modified) and Murphy are combinable because they are analogous with respect to golf balls. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the pigment additive of Murphy into the first material of Lammi in order to form a highly visible, light reflective golf ball. In regard to claim 21, such is taught by Lammi (col 5, lns 1-39; figs 1-8).

6. Applicant's arguments filed 6/18/09 have been fully considered but they are not persuasive. Applicant argues that Maruko et al do not teach the lack of teachings or suggestions in Lammi because Maruko et al do not teach a single multi-color cover layer. Applicant argues that Maruko et al do not teach a single multi-color cover layer because 1) the cover layer comprises an inner and outer cover layer; and 2) the layers are essentially the same color. In regard to the cover layer comprising an inner and outer cover layer, this argument is misplaced because the cover layer of Maruko et al is within the definition of a single multi-color cover layer. At pg 9, lns 15-17 of the instant specification, applicant recites that a multi-color cover layer is comprised of a "first material divided into an inner layer and an outer layer by an injected intermediate layer of a second material." Thus, a cover layer comprised of an inner layer and an outer

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layer is within the definition of single multi-color cover layer. In regard to the layers of Maruko et al being essentially the same color, applicant should note that the instant claims do not recite a minimum color difference between the materials/layers. Though Maruko et al do teach an optimized color difference between the layers in order to minimize sight of seams and streaks formed on an inner layer, Maruko et al do not teach that the layers must be the same color. Specifically, Maruko et al teach a permissible color difference of 3 or less in Lab color space between the inner and outer layers. Since applicant does not claim a minimum color difference, the color difference taught by Maruko et al meets the claimed limitation of using materials being different colors.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571.272.1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Primary Examiner
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